



Freshwater Wetlands in the Vicinity of the Coast

Background

For many years, freshwater wetlands near Rhode Island's coast have been under the regulatory jurisdiction of both the Department of Environmental Management (DEM) and the Coastal Resources Management Council (CRMC). Due to the recent enactment of a state law intended to eliminate duplicative permitting, CRMC and DEM have jointly established a line that clearly delineates areas of freshwater wetlands regulatory jurisdiction. The jurisdictional line took effect August 18, 1999.

The jurisdictional boundary

Biologists from the CRMC and DEM worked together to establish a line that delineates freshwater wetlands jurisdiction between the two agencies. Generally, the jurisdictional line coincides with state and local roads. In the instances where roadways were not used, for the most part, the line follows local right-of-ways or property boundaries. As of August 18, 1999, all freshwater wetlands activities that are seaward of the line, or, *in the vicinity of the coast*, are under the jurisdiction of the CRMC. All freshwater wetlands activities that are landward of the line remain under the authority of the DEM. (Rule 2.03)

Farmers

The only exception to this change to freshwater wetlands regulation pertains to farmers. The jurisdictional line does not apply to farmers pursuing farm-related projects. DEM will continue to be the freshwater wetlands regulatory agency for all farmers, regardless of the location of the farm. (Rule 2.03)

Rules and regulations

The CRMC's *Rules and Regulations Governing the Protection and Management of Freshwater Wetlands in the Vicinity of the Coast* are similar to the DEM's wetlands *Rules* with some definitional and procedural changes, which allow CRMC to maintain consistent procedures and programs. It is the goal of both agencies to continue to fully protect the integrity of freshwater wetlands.

Existing DEM wetlands permits

All determinations, verifications, and permits issued by DEM will remain valid for the specified time periods. All permits issued by DEM for projects involving freshwater wetlands in the vicinity of the coast will be administered by DEM until December 31, 2001. After this date, CRMC will renew, modify, and transfer these valid permits, unless there is outstanding enforcement action or a legal proceeding related to the permit. All new applications relating to the original permit must be submitted to CRMC after December 31, 2001, even though you may have received your original permit from DEM. (Rule 2.03 B)

Ongoing DEM applications and enforcement cases

All freshwater wetlands applications pending with DEM will continue to be reviewed by DEM under the *Rules* in effect at the time the application was submitted. An application is considered pending at DEM once an application number has been assigned. An additional freshwater wetlands permit will not be required from CRMC. Ongoing DEM enforcement actions on properties that are seaward of the line will also continue to be processed by DEM. (Rule 2.03 A,C&F)

Projects on the boundary or that straddle the boundary

The agencies have further minimized duplicative permitting by designating a single review agency for most situations where projects are on the boundary or that straddle the boundary. If your project is on the boundary and partially or entirely within a Special Area Management Plan (SAMP) or within 200 feet of a coastal feature, then CRMC will have authority. If the project is completely outside these limits, DEM will have authority.

If your project straddles the boundary, but all freshwater wetlands are on the landward side, DEM will have authority. If all the wetlands are on the seaward side, CRMC will have authority. If your project straddles the boundary and freshwater wetlands are located on both sides of the boundary and if the project is located partially or entirely inside in a CRMC jurisdictional area, then CRMC will have authority. If the project is outside all CRMC jurisdictional areas, then DEM will have authority. If your project is linear and straddles the boundary DEM and CRMC will decide on a case-by-case basis who will be the authority. A written request for this type of project should be given to CRMC and the agencies will coordinate a response. (Rules 2.03 D&E)

Other CRMC regulatory programs

Those portions of the Coastal Resources Management Program (CRMP) and the Special Area Management Plans (SAMPs) that pertain to freshwater wetlands will remain in effect. In all cases where there is more than one protection standard or provision from the CRMC, the SAMP, and the *Rules and Regulations Governing the Protection and Management of Freshwater Wetlands in the Vicinity of the Coast*, then the more stringent standard shall apply. In the event a project is entirely on the DEM side of the boundary and also within a CRMC SAMP or within 200 feet of a coastal feature, the agencies will complete a coordinated review.

Other permits

The CRMC *Rules and Regulations Governing the Protection and Management of Freshwater Wetlands in the Vicinity of the Coast* pertain to State freshwater wetlands permitting and enforcement only. These Rules do not eliminate the need to obtain other local, state or federal permits. When applicable to freshwater wetlands in the vicinity of the coast, the U.S. Army Corps of Engineers Programmatic General Permit will be administered by CRMC. The DEM will continue to administer the *Rules and Regulations Establishing Minimum Standards Relating to Location, Design, Construction and Maintenance of Individual Sewage Disposal Systems* (ISDS Rules) and the *Water Quality Regulations* throughout the State.

Availability of maps, Rules, forms, etc.

The maps that illustrate the jurisdictional line are available for inspection at the CRMC, the DEM Office of Technical and Customer Assistance, and the applicable coastal Town and City Halls. At this time, maps may be borrowed from the CRMC to have paper copies made. Hard disk "ARCVIEW" versions of the maps are now available. Copies of the *Rules and Regulations Governing the Protection and Management of Freshwater Wetlands in the Vicinity of the Coast* are available from the CRMC, as are application forms, data sheets, etc.

For further information please contact

CRMC at Oliver H. Stedman Government Center, 4808 Tower Hill Road, Wakefield, RI 02879; Phone (401) 783-3370.

DEM Office of Technical and Customer Assistance at (401) 222-6822, Office of Water Resources Wetlands Program at (401) 222-6820, Office of Compliance and Inspection at (401) 222-1360, and Division of Agriculture at (401) 222-2781. All DEM Offices are at 235 Promenade Street, Providence, RI 02908.